

STATE OF HAWAII
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
HONOLULU, HAWAII

April 5, 1976

MEMORANDUM - 1976-9

TO: Heads of Departments and Agencies

FROM: Hideo Murakami, Comptroller

SUBJECT: Employee Retirement Contributions Deducted
from Workers' Compensation Payments

Attached to this memorandum is a copy of a memorandum dated March 22, 1976, from the Director, Department of Labor and Industrial Relations, on the subject "DAGS" Circular 190". The Director has requested that references to retirement system deductions from workers' compensation payments be deleted from this Circular, in view of Section 386-57, HRS.

Accordingly, this memorandum is to advise all State departments and agencies to disregard all references to retirement system deductions made in the Circular and in the related Notification and Election of Compensation for Industrial Injury form. Since such deductions are computerized under the State's payroll system, we will be coordinating with the EDP Division of the Department of Budget and Finance to effect the necessary program changes to stop the automatic deductions immediately.

In light of the foregoing, please encourage all affected employees who are currently receiving workers' compensation payments, to continue contributing by making payments directly to the Employees' Retirement System, in order not to lose retirement service credits. Any questions concerning this particular matter should be directed to the Employees' Retirement System.


HIDEO MURAKAMI
Comptroller

GEORGE R. ARIYOSHI
GOVERNOR



JOSHUA C. AGSALUD
DIRECTOR

ROBERT C. GILKEY
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
825 MILILANI STREET
HONOLULU, HAWAII 96813

March 22, 1976

MEMORANDUM

To: Honorable Hideo Murakami, Comptroller
Department of Accounting and General Services

From: Joshua C. Agsalud, Director
Department of Labor and Industrial Relations

Subject: DAGS' Circular 190

In a recent legislative hearing on S.B. No. 2564-76, an allegation was made that some government jurisdictions were deducting retirement contributions from employees' workers compensation benefit payments. Because such deductions are contrary to the provisions of Section 386-57, HRS, the Department of Labor and Industrial Relations Disability Compensation Division made several inquiries to verify the existence of this practice which present administration was unaware of.

We learned that the Department of Accounting and General Services had in 1967 promulgated and issued its Circular 190. This circular, we were informed, was primarily intended as a guide to provide uniformity in application of Act 88 and computations of sick leave benefits in conjunction with workers' compensation benefits. Circular 190 also contained instructions regarding the completion and submission of "Notification and Election of Compensation for Industrial Injury" form. Both the circular and the notification form contain references to retirement system deductions being withheld from workers' compensation payments.

Section 386-57, HRS, provides that the right to compensation under the workers' compensation law is not assignable and the right to compensation and compensation payments received are exempt from the reach of creditors. An employee, therefore, cannot elect to have his retirement system contribution deducted from his workers' compensation benefit payment. Similarly, a retirement system deduction from workers' compensation payments made by the State are contrary to the workers' compensation law.

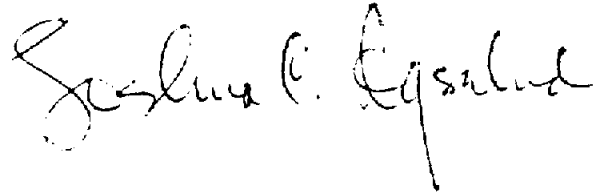
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COMPTROLLER
STATE OF HAWAII

Honorable Hideo Murakami
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We therefore respectfully request that the Department of Accounting and General Services delete from Circular 190, 1967, and Notification and Election of Compensation for Industrial Injury form, those references to retirement system deductions from workers' compensation payments, and that all State agencies be advised to discontinue the practice.

A handwritten signature in cursive script, appearing to read "S. C. E. E. E. E.", is written in dark ink.

cc: Senator George Toyofuku